

Dear Federal Communications Commission:

Please accept these comments regarding the FCC Notice of Proposed Rulemaking on Communication Towers and Birds, WT Docket No. 03-187. We, the undersigned submit these comments are submitted on behalf of ourselves as individuals and on behalf of Arizonans for a Better Environment, Inc.

We, wife and husband, are birders who pursue that and related outdoor activities throughout Arizona and elsewhere in the United States on a continuous basis. We also feed wild birds on occasion and have designed our yard in central Arizona to be suitable habitat for a wide variety of non-aquatic resident, breeding and migratory birds. Yesterday, for example, we observed thirteen species of birds in our yard, six of which were migratory species. The welfare of birds is important to us personally.

Arizonans for a Better Environment, Inc., is a research and public education 501(c)(3) Arizona corporation founded in 1978. A local organization, ABE currently focuses its efforts on public education regarding habitat-related issues, the impact of development on habitat and outdoor amenities, alerting the local public to issues and public comment opportunities affecting those amenities, and on personal steps (such bird- and pollinator-friendly gardening, energy choices, etc.) that can protect those amenities. ABE has participated in various and numerous Federal agency public comment processes affecting those amenities. These comments incorporate the following statement, prepared by the American Bird Conservancy, which ABE and we as individuals join.

The overwhelming evidence submitted to the FCC documents that the existing 90,000 antenna tower structures cause the death of millions of migratory birds, that these deaths are cumulatively significant for many birds, including Birds of Conservation Concern, and that there are readily available techniques to prevent this killing. The FCC should adopt measures immediately and stop the delays in addressing this pressing environmental issue.

The U.S. Fish and Wildlife Service (USFWS), whose duties under federal law include the protection of migratory birds, concludes that at least 5 million and as many as 50 million birds are killed at FCC registered

towers each year, and that population impacts to migratory songbirds are severe and biologically significant. The FCC has peer-reviewed published studies of bird kills at towers, including a 38-year study of a single television tower in west central Wisconsin documenting 121,560 birds killed, representing 123 species, primarily long-distance neotropical migrants. A 29-year study by the Tall Timbers Research station at a Florida TV tower documented the killing of over 44,000 birds of 186 species, 94% of which were neotropical migrants. More than 60 of the species killed at towers are USFWS Birds of Conservation Concern, needing special attention to prevent Endangered Species Act (ESA) listing.

It should be apparent from the studies and comments submitted to the FCC in response to the Notice of Inquiry and this NPRM, that the standard for significance at issue for FCC legal action and compliance is not a scientific standard, but rather a statutory standard under the National Environmental Policy Act (NEPA), and that these bird kills clearly constitute a significant impact to biological resources under NEPA. Thus, the FCC is required to act under NEPA and under the Migratory Bird Treaty Act (MBTA) and the ESA to prevent these significant environmental impacts to birds.

The overwhelming scientific documentation and research that the FCC has received supports changes to tower siting, lighting, and use of guy wires. The USFWS Tower Siting Guidelines should be followed, as should the Federal Aviation Administration stated preference for the use of white strobe lighting exclusively at night where possible. The FCC should stop delaying and require that:

- 1) New antennas should be co-located on existing structures, and if not, kept under 200' if possible
- 2) If lighting is required, only white or red strobe lighting should be used – use of steady-burning or slow-pulsing red lights should cease;
- 3) All existing towers using red steady-burning or slow-pulsing lights should be converted to white or red strobes; and
- 4) New towers under 500' should not use guy wires unless absolutely necessary

New and older research documents that red steady-burning or slow-pulsing lights attract birds to towers at night and that many of the ensuing deaths are from striking guy wires. The Michigan research by Dr. Joelle

Gehring documents that 90% of bird kills are caused by guy wires. Turning off red steady-burning lights at night and using red or white strobe lights reduced bird kills by approximately 72%.

The FCC can choose to continue to delay in this matter and continue to violate NEPA, ESA, and the MBTA. Or, the FCC can solve this problem and adopt provisions for the co-location of towers, the use of strobe lights exclusively on all towers, and for not allowing guy wires on new towers where possible. I urge the FCC to act NOW to prevent the deaths of millions of birds at communication towers each year.

Sincerely,

Barbara S. Bush, President

Myron L. Scott, Director and counsel

ARIZONANS FOR A BETTER ENVIRONMENT, INC.